

Application No.: 10/034,042

Response to Office Action having a mailing date of March 17, 2008

Claims 27-49 were presented for the Examiner's consideration. Claims 33, 45, and 47-49 are withdrawn. Claim 34 is canceled. By this Amendment, claims 27 and 41 are amended. Hence, claims 27-32, 35-44, and 46 are currently pending in the application. Support for this Amendment is found in the specification at page 12, lines 30-35, Fig. 6, and in the claims as originally filed. No new matter is added.

## REMARKS

### I. 35 USC 102 Rejections

Claims 27-28, 30-32, 38-39, 41-42, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Schindler (US Pat. No. 3,852,826). The rejection is traversed to the extent that it applies to the presently presented claims.

For a prior art reference to anticipate in terms of 35 U.S.C. 102, every element of the claimed invention must be identically shown in a single reference. Applicants respectfully submit that the cited reference does not anticipate the claims because the reference does not disclose all of the claim limitations.

Schindler teaches a thin surgical glove having a colored circumferential band overlying the cuff portion of the glove. The purpose of the band is to provide visual identification of the glove size and to impart further strength to the glove cuff (See Abstract).

Applicant's representative has reviewed Schindler and has been unable to locate any teaching or suggestion of an elastomeric article having a first and second layer wherein the second layer **overlaps the first layer completely** as required by independent claim 27. Additionally, Applicant's representative has been unable to locate any teaching or suggestion of a glove having a first and second layer wherein the second layer **at least partially overlaps the finger and palm areas** of the glove as required by independent claim 41.

Instead, Schindler (throughout the patent) teaches that a second layer should **only** be coated on the cuff portion of the glove (See Column 2, lines 8-42). In marked contrast, independent claim 27 requires that the second layer covers the first layer completely, and

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Independent claim 41 requires that its glove have a second layer which at least partially overlaps the finger and palm areas of the glove.

Importantly, the invention as represented by both independent claim 27 and 41 utilize the second layer to cover the area of the elastomeric article or glove which is particularly susceptible to rupture, or that is exposed to the highest degree of wear/physical abuse during use. In contrast, Schindler's second layer is explicitly limited to just the cuff area.

Because Schindler does not teach all the limitations of amended independent claims 27 and 41, the rejection under section 102(b) should be withdrawn. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 27-28, 30-32, 34-35, 38-39, 41-42, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Richardson et. al (U.S. Pat. No. 5,817,365). The rejection is traversed to the extent that it applies to the presently presented claims.

Richardson teaches a rubber article having an outer translucent layer and an inner darker layer. The layers adhere to and are separated by a separation material which prevents the layers from coming into contact with each other. This construction forms an air gap between the layers for detection of liquid penetration between the layers. (See Abstract and Col. 3, lines 27-36).

Applicant's representative has reviewed Richardson and has been unable to locate and teaching or suggestion of an elastomeric material having a second layer of a second polymeric material **formed adjacent to and in direct contact over** the first layer as required by independent claim 27. Additionally, Applicant's representative has been unable to locate any teaching or suggestion of a glove having a second layer of a second polymeric material that at least partially overlaps and is **adhered directly adjacent to said first layer** as required by independent claim 41.

Instead, Richardson teaches the formation of air pockets for detection of fluids by separating the two layers. Only after a breach or rupture can one perceive a change in color of the glove in the area of breach. In contrast, Applicant's invention requires that the two layers of polymeric material be in communication with each other. Applicant's gloves and elastomeric articles allow a user to readily perceive or detect the presence of multiple layers without a breach or rupture through the use of contrasting colors relative of the layers. A breach is not

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required to show contrast. Further, as discussed above, Applicant's gloves and elastomeric articles do not form gaps or pockets between layers.

Because Richardson does not teach all the limitations of amended independent claims 27 and 41, the rejection under section 102(b) should be withdrawn. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

## II. 35 USC 103 Rejections

Claims 29, 34-37, 40, 43, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schindler (U.S. Pat. No. 3,852,826). The rejection is traversed to the extent that it applies to the presently presented claims.

With respect to the rejection under 35 U.S.C. § 103(a), it is well settled that teachings of a reference can be modified only when there is some objective teaching or suggestion in the reference itself or knowledge generally available to one of ordinary skill in the art as to the desirability or incentive of such a modification. See MPEP §2143.

It is the Applicants' position that the Patent and Trademark Office has failed to establish prima facie obviousness with respect to the teachings of Schindler.

As discussed above, Applicant's representative has reviewed Schindler and has been unable to locate any teaching or suggestion of an elastomeric article having a first and second layer wherein the second layer **overlaps the first layer completely** as required by independent claim 27. Additionally, Applicant's representative has been unable to locate any teaching or suggestion of a glove having a first and second layer wherein the second layer **at least partially overlaps the finger and palm areas** of the glove as required by independent claim 41.

One of ordinary skill in the art would not have been motivated to modify Schindler to create Applicant's invention because Schindler, on multiple occasions, explicitly limits the application of its second layer to the cuff portion of the glove. Additionally, the express purpose of the Schinder glove is reinforce the wrist portion of the glove against tearing (See Col. 2, lines 12-13). Because Schindler is only interested in reinforcing the cuff portion of the glove, there would have been no motivation for one of ordinary skill in the art to incur the

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added financial expensive of applying a second coating to the palm portion, finger portion, or the entire glove.

Accordingly, it is the Applicants' position that the applied reference is insufficient to establish prima facie obviousness and that the Examiner's rejection on this ground is untenable and should be withdrawn.

Claims 29, 36, 37, 40, 43, and 46 are rejected under 35 USC 103(a) as being unpatentable over Richardson (U.S. Pat. No. 5, 817, 365). The rejection is traversed to the extent that it applies to the presently presented claims.

As discussed above, Applicant's representative has reviewed Richardson and has been unable to locate any teaching or suggestion of an elastomeric material having a second layer of a second polymeric material **formed adjacent to and in direct contact over** the first layer as required by independent claim 27. Additionally, Applicant's representative has been unable to locate any teaching or suggestion of a glove having a second layer of a second polymeric material that at least partially overlaps and is **adhered directly adjacent to said first layer** as required by independent claim 41.

One of ordinary skill in the art would not have been motivated to modify Richardson to create Applicant's invention because doing so would render Richardson inoperable for its intended purpose. In this regard, the layers of Richardson adhere to and are separated by a separation material which prevents the layers from coming into contact with each other. This construction forms an air gap between the layers for detection of liquid penetration between the layers.

If the layers of Richardson were modified to be in communication with each other as required by the independent claims, it would be difficult, if not impossible, to detect liquid penetration between the layers.

Accordingly, it is the Applicants' position that the applied reference is insufficient to establish prima facie obviousness and that the Examiner's rejection on this ground is untenable and should be withdrawn.

In summary, it is submitted that Applicants' claims presently in the application are patentably distinct over the prior art of record. Thus, it is submitted that the present application is in a condition for allowance and favorable action thereon is respectfully requested. The

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Examiner is invited to telephone the undersigned at his convenience should only minor issues remain after consideration of the present amendment to permit early resolution of the same.

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Applicant believes that the present response is timely and no extension of time is required, but should Applicant be in error, Applicant respectfully requests the Office grant such time pursuant to 37 C.F.R. 1.136(a) as necessary to make this response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to time extension to the Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

Please direct any questions or comments to James Arnold, Jr. at: tel. 770-587-8620.

Respectfully submitted,

Maris Vistins

By

  
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## CERTIFICATE OF TRANSMISSION

I, James Arnold, Jr., hereby certify that on June 17, 2008 this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

By:

  
James Arnold, Jr.